

**246.270-3 Exceptions.**

The combatant commander may waive compliance with the foregoing standards when it is impracticable to comply with such standards under prevailing operational conditions.

[75 FR 66685, Oct. 29, 2010]

**246.270-4 Contract clause.**

Use the clause at 252.246-7004, Safety of Facilities, Infrastructure, and Equipment for Military Operations, in solicitations and contracts for the construction, installation, repair, maintenance, or operation of facilities, infrastructure, or for equipment configured for occupancy, planned for use by DoD military or civilian personnel during military operations.

[75 FR 66685, Oct. 29, 2010]

**Subpart 246.3—Contract Clauses**

**246.370 Material inspection and receiving report.**

(a) Use the clause at 252.246-7000, Material Inspection and Receiving Report, in solicitations and contracts when there will be separate and distinct deliverables, even if the deliverables are not separately priced.

(b) When contract administration is retained by the contracting office, the clause at 252.246-7000, Material Inspection and Receiving Report, is not required for—

- (1) Contracts awarded using simplified acquisition procedures;
- (2) Negotiated subsistence contracts;
- (3) Contracts for fresh milk and related fresh dairy products;
- (4) Contracts for which the deliverable is a scientific or technical report;
- (5) Research and development contracts not requiring the delivery of separately priced end items;
- (6) Base, post, camp, or station contracts;
- (7) Contracts in overseas areas when the preparation and distribution of the DD Form 250, Material Inspection and Receiving Report, by the contractor would not be practicable. In these cases, arrange for the contractor to provide the information necessary for the contracting office to prepare the DD Form 250;

(8) Contracts for services when hardware is not acquired as an item in the contract; and

(9) Indefinite delivery type contracts placed by central contracting offices which authorize only base, post, camp, or station activities to issue orders.

[56 FR 36460, July 31, 1991, as amended at 64 FR 2598, Jan. 15, 1999]

**246.371 Notification of potential safety issues.**

(a) Use the clause at 252.246-7003, Notification of Potential Safety Issues, in solicitations and contracts for the acquisition of—

(1) Repairable or consumable parts identified as critical safety items;

(2) Systems and subsystems, assemblies, and subassemblies integral to a system; or

(3) Repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system.

(b) Follow the procedures at PGI 246.371 for the handling of notifications received under the clause at 252.246-7003.

[72 FR 2636, Jan. 22, 2007]

**Subpart 246.4—Government Contract Quality Assurance**

**246.401 General.**

The requirement for a quality assurance surveillance plan shall be addressed and documented in the contract file for each contract except for those awarded using simplified acquisition procedures. For contracts for services, the contracting officer should prepare a quality assurance surveillance plan to facilitate assessment of contractor performance, see 237.172. For contracts for supplies, the contracting officer should address the need for a quality assurance surveillance plan.

[75 FR 22706, Apr. 30, 2010]

**246.402 Government contract quality assurance at source.**

Do not require Government contract quality assurance at source for contracts or delivery orders valued below \$300,000, unless—

- (1) Mandated by DoD regulation;

(2) Required by a memorandum of agreement between the acquiring department or agency and the contract administration agency; or

(3) The contracting officer determines that—

(i) Contract technical requirements are significant (*e.g.*, the technical requirements include drawings, test procedures, or performance requirements);

(ii) The product being acquired—

(A) Has critical characteristics;

(B) Has specific features identified that make Government contract quality assurance at source necessary; or

(C) Has specific acquisition concerns identified that make Government contract quality assurance at source necessary; and

(iii) The contract is being awarded to—

(A) A manufacturer or producer; or

(B) A non-manufacturer or non-producer and specific Government verifications have been identified as necessary and feasible to perform.

[70 FR 8543, Feb. 22, 2005, as amended at 75 FR 45074, Aug. 2, 2010]

**246.404 Government contract quality assurance for acquisitions at or below the simplified acquisition threshold.**

Do not require Government contract quality assurance at source for contracts or delivery orders valued at or below the simplified acquisition threshold unless the criteria at 246.402 have been met.

[70 FR 8543, Feb. 22, 2005]

**246.406 Foreign governments.**

(1) *Quality assurance among North Atlantic Treaty Organization (NATO) countries.* (i) NATO Standardization Agreement (STANAG) 4107, Mutual Acceptance of Government Quality Assurance and Usage of the Allied Quality Assurance Publications—

(A) Contains the processes, procedures, terms, and conditions under which one NATO member nation will perform quality assurance for another NATO member nation or NATO organization;

(B) Standardizes the development, updating, and application of the Allied Quality Assurance Publications; and

(C) Has been ratified by the United States and other nations in NATO with certain reservations identified in STANAG 4107.

(ii) Departments and agencies shall follow STANAG 4107 when—

(A) Asking a NATO member nation to perform quality assurance; or

(B) Performing quality assurance when requested by a NATO member nation or NATO organization.

(2) *International military sales (non-NATO).* Departments and agencies shall—

(i) Perform quality assurance services on international military sales contracts or in accordance with existing agreements;

(ii) Inform host or U.S. Government personnel and contractors on the use of quality assurance publications; and

(iii) Delegate quality assurance to the host government when satisfactory services are available.

(3) *Reciprocal quality assurance agreements.* A Memorandum of Understanding (MOU) with a foreign country may contain an annex that provides for the reciprocal performance of quality assurance services. MOUs should be checked to determine whether such an annex exists for the country where a defense contract will be performed. (See subpart 225.8 for more information about MOUs.)

[56 FR 36460, July 31, 1991, as amended at 63 FR 43890, Aug. 17, 1998; 63 FR 47439, Sept. 8, 1998; 71 FR 27647, May 12, 2006]

**246.407 Nonconforming supplies or services.**

(f) If nonconforming material or services are discovered after acceptance, the defect appears to be the fault of the contractor, any warranty has expired, and there are no other contractual remedies, the contracting officer—

(i) Shall notify the contractor in writing of the nonconforming material or service;

(ii) Shall request that the contractor repair or replace the material, or perform the service, at no cost to the Government; and

(iii) May accept consideration if offered. For guidance on solicitation of a refund, see subpart 242.71.

(S-70) The head of the design control activity is the approval authority for